

# In the Court of Appeals of the State of Alaska

**Scott Groom,**

Appellant,

v.

**State of Alaska,**

Appellee.

Court of Appeals No. **A-13288**

## **Order**

Date of Order: **July 21, 2021**

Trial Court Case No. **3AN-13-05483CR**

The Appellant, Scott Abraham Groom, is currently represented at public expense by Kelly Taylor, an attorney from the Public Defender Agency. Ms. Taylor asks this Court to remand this case for a representation hearing. Ms. Taylor explains that Mr. Groom has expressed dissatisfaction with Ms. Taylor's representation. In addition, Ms. Taylor also requests this Court extend the time for filing the reply brief in this case until August 11, 2021.

Mr. Groom may be unhappy with his current appointed attorney. But in this case, both the Appellant's opening briefing and the Appellee's brief have been accepted. At this stage of the appeal, even if Mr. Groom is appointed a new attorney, that new attorney will generally be limited to filing a reply brief — that is, a brief that counters or rebuts the State's brief, or further clarifies an argument made in Mr. Groom's opening brief. A new attorney is not allowed to raise new arguments or claims of errors in a reply brief. Nor, as a general matter, at this stage of the appeal, except for filing a reply brief, will a new attorney be allowed to file other "pleadings" without first showing that good cause exists to do so.

Additionally, Mr. Groom does not have the right to reject appointed counsel and have new counsel appointed at public expense in the absence of any showing of cause for that change. *See Mute v. State*, 123 P.3d 1081, 1088 (Alaska App. 2005).

Although Mr. Groom may be dissatisfied, or even disagree, with Ms. Taylor over which issues have been argued on appeal, or how those issues should have been argued, it is ultimately Ms. Taylor's duty, in the exercise of her best professional judgment, to decide how to brief the appeal. *See Jones v. Barnes*, 463 U.S. 745 (1983). The fact that Mr. Groom may disagree with Ms. Taylor's choices does not constitute good cause for removing her.

Because of the procedural posture of this appeal, Mr. Groom's expressed dissatisfaction with his attorney's representation is insufficient to warrant a remand for a representation hearing. If Mr. Groom does not prevail in this appeal, he may at that time challenge his attorney's representation in this appeal by filing an appropriate application for post-conviction relief in the superior court.

Accordingly, **IT IS ORDERED:**

1. The motion to remand this case for a representation hearing is **DENIED**.
2. The request to extend time to file the reply brief is **GRANTED**. The reply brief is now due on or before **August 11, 2021**.

Entered under the authority of Chief Judge Allard.

Clerk of the Appellate Courts

A handwritten signature in black ink, appearing to read 'Kaitlin D'Eimon', written over a horizontal line.

Kaitlin D'Eimon, Deputy Clerk

Distribution:

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